

ARTICLE 14

CONTINGENT MOTION OFFERED BY THE MODERATOR'S COMMITTEE ON SHORT-TERM RENTALS TO BE MOVED IF TOWN MEETING VOTES NO ACTION ON OTHER MOTIONS UNDER ARTICLES 14,15,16, AND/OR 17.

To see if the Town will:

- 1) Amend Section 2.19 of the Town of Brookline Zoning By-law by inserting the following:

½. SHORT-TERM RENTAL – The rental of a whole or portion of a dwelling unit as defined under M.G.L. Chapter 64G.

- 2) Amend Section 4.07 of the Town of Brookline Zoning By-law by adding the following use 51C:

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
51C. Short-Term Rental for periods of 27 days or fewer.	No	No	No	No	No	No	No	No	No

EXPLANATION

This contingent motion will be moved if Town Meeting votes no action on the other Short-Term Rental motions that would permit and regulate the operation of Short-Term Rentals under Articles 14,15,16 and/or 17.

This article would amend the zoning bylaw and would make explicit the prohibition on the operation of Short-Term Rentals in Brookline.

The Building Commissioner and Zoning Board of Appeals has determined that Short-Term Rentals are prohibited in Brookline because the Town's current Zoning Bylaw does not specifically identify them as a permitted use.

There is a pending lawsuit against the Town of Brookline challenging the Building Commissioner's and ZBA's interpretation that Short-Term Rentals are not allowed by the Zoning Bylaw. (While the Federal Court dismissed certain State and federal constitutional claims, the State law zoning-related claims remain in the case.)

If this Town Meeting were to vote No Action on the warrant articles proposing Zoning Bylaw amendments pertaining to Short-Term Rentals (Warrant Article 14 and this motion), and the lawsuit challenging the Town's interpretation of its Zoning Bylaw is then successful, it is possible that Short-Term Rentals may become an as-of-right use.

In the event that Short-Term Rentals become an as-of-right use, they may proliferate in Brookline without any local regulations, restrictions, safety inspections and specific enforcement. In that event, there may be no enforceable restrictions on sleeping accommodations, number of guests per stay, number of rental days in a year, safety inspections, notices and instructions for guests, and other regulations that have been adopted by surrounding communities. There may also be no restriction that prevents investors from converting Brookline's limited, long-term housing inventory into Short-Term Rentals.

Furthermore, if this Town Meeting were to vote No Action and a future Town Meeting were then to adopt a Zoning Bylaw amendment on Short-Term Rentals, say in two years, there would be that many more possibly grandfathered Short-Term Rentals that could argue for an exemption as a pre-existing non-conforming use.

The Town Moderator has suggested to the Committee that it should consider a motion such as the foregoing to put to rest any future contention that the Zoning Bylaw is ambiguous.